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PARLIAMENTARY STANDING COMMITTEE PUBLIC HEARING ON "AMENDMENT OF LABOR LAW"
June 15, 2013

Mr. Chairman and Members of the Committee: I appreciate your kind invitation to speak at today's public hearing. Ambassador Mozena is currently traveling outside Bangladesh; otherwise he would be here with you today. Before addressing the topic at hand, I want to reiterate my government's unwavering commitment to supporting Parliament's Standing Committees through our parliamentary strengthening program -- Promoting Democratic Institutions and Practices (PRODIP). As Ambassador Mozena said at last month's hearing, parliamentary oversight is a key component to a properly functioning system of checks and balances among the branches of government. I want to echo his call to update the current parliamentary rules of procedure to allow for these public hearings to take place without requiring ad hoc requests to the Speaker.

Turning to the subject of today's hearing, as you know my government has been a strong supporter of the current effort to reform the labor law. I would like to acknowledge the Ministry of Labor's close collaboration with the ILO and others over the last months, to work through these important amendments to the Bangladesh Labor Act which will bring key provisions into line with international standards. Passage of such a comprehensive package of amendments will help ensure that worker rights are fully protected and will help safeguard workplace health and safety. We hope this will also help create an enabling environment for the successful launch of a Better Work Program, which will be a powerful vehicle to bring the RMG sector into greater compliance with international standards. Changes to the labor law are an important step towards improving conditions for Bangladesh's workers. Once these reforms have been enacted, however, the next challenge will be to ensure the effective implementation of the new provisions

laid out in this law. I would urge the Parliamentary Standing Committee to also play a role in ensuring that this implementation takes place.

In the interest of time, I would like to highlight just a few aspects of the proposed labor law reform proposal here today:

The deletion of the prior requirement [in Section 178] that the Ministry of Labor share with employers the **names of union officers** listed on applications for union registration is a clear improvement and will help protect workers during their efforts to organize a union. We note, however, that the remaining subsection (3) of 178 appears to retain the requirement for some unions involving workers from multiple employers, and it is not clear why those unions should not also benefit from the positive change.

Another significant change is the ability of workers and employers to **consult "outsiders**" or experts during collective bargaining. Negotiations between workers and employers can be complicated and technical. Allowing unions to consult with experienced negotiators and labor specialists should help improve the outcomes of agreements, making them more fair and balanced, and thereby facilitate stability in the sector. To maximize the benefit of these "experts," they should be understood as including not only union leaders and other labor experts, but technical experts on issues such as fire and building safety. There appears to be some confusion regarding the definition of "expert" or "specialist." We believe that the definition should include all trade unions leaders of the sector and also – separately -- individuals with specialized knowledge and experience. That would permit a broad range of consultants. A narrower reading of that translation that permitted only trade union leaders who are *either* in the sector *or h*ave the necessary expertise would represent, we believe, a missed opportunity.

The new provision [at Section 205] that would require the "**election" of workers** on the participation committees, by their fellow workers, is also a potentially significant reform. It will help address workers' concerns that these committees are employer dominated, with no independent worker voice. If implemented properly, this seemingly small change could improve stability in the important RMG sector by creating a forum in which employers and workers views are well represented and subject to open discussion. In order to realize these positive changes, however, the "elections" must be free and fair. If "elections" are overseen by the employers, they will not be seen as credible, and this change could do more harm than good. In

order to be seen as fair, and to avoid undue influence from the employer, we propose to the Committee that these elections must be overseen by the Director of Labor.

There are a few additional areas in the current draft of the proposal where worker protections could be further strengthened.

- The amendments increase the requirements for **registration of a federation** from two unions to five unions in more than one administrative division. This change would appear to make it much more difficult for federations to register, especially in geographically dense or concentrated sectors, such as garments in Dhaka or shrimp in Khulna.
- The amendments require that, when appearing in Labor Court, workers must now either **represent** themselves or hire a lawyer. The previous version of the law authorized representation by any person selected by the worker, which would allow trade union leaders with experience in the Labor Court system to represent their members. This change seems to reduce workers' meaningful access to the courts, as many do not have the means to hire a lawyer nor the legal expertise to represent themselves. We would suggest retaining the language in the current law.
- The draft law also requires the **prior approval** of the Minister of Labor before unions can accept any financial assistance from international affiliates. As the ILO has made clear in comments around the world, this prior approval provision is inconsistent with international standards. The USG suggests that prior *notification* might serve the purposes of the Government without unduly infringing union rights.

Finally, we remain concerned that certain provisions of the Labor Law still do not conform to international standards. We defer to the ILO to speak more directly to these issues, but would briefly highlight just a few.

- The definition of adolescent currently allows 14 year olds to work in dangerous jobs.
- The 30% threshold for union registration impedes union formation;
- Significant restrictions on the right to strike persist, such as the ban on strikes lasting more than 30 days.

The US government would refer this Committee, generally, to the comments of the ILO during these hearings, and more broadly, to the comments of the ILO Committee of Experts. We would also be very pleased to offer the Committee, in writing, any technical suggestions on ways

to further strengthen the Labor Law. We stand ready to help the Committee and the Government of Bangladesh on this important matter in any way that we can.

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